

MINUTES

MONTANA SENATE 57th LEGISLATURE - REGULAR SESSION COMMITTEE ON TAXATION

Call to Order: By **CHAIRMAN BOB DEPRATU**, on January 16, 2001 at 8:00 A.M., in Room 405 Capitol.

ROLL CALL

Members Present:

Sen. Bob DePratu, Chairman (R)
Sen. Alvin Ellis Jr., Vice Chairman (R)
Sen. John C. Bohlinger (R)
Sen. Mack Cole (R)
Sen. Pete Ekegren (R)
Sen. Jon Ellingson (D)
Sen. Bill Glaser (R)
Sen. Dan Harrington (D)
Sen. Emily Stonington (D)

Members Excused: None.

Members Absent: None.

Staff Present: Lee Heiman, Legislative Branch
Deb Thompson, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: SB 192, 1/13/2001; SB 232,
1/13/2001
Executive Action: SB 44 Pass 9-0
SB 46 Tabled
SB 47 Tabled
SB 162 Hold/Amendment Passed

HEARING ON SENATE BILL 232

Sponsor: SEN. DALE MAHLUM, SD 35, MISSOULA

Proponents: Linda Stohl, Missoula County; Mary Whittinghill, Montana Taxpayers Association; Gordon Morris, MACO, Eric Burke, MEA-MFT

Opponents: None

Opening Statement by Sponsor:

SENATOR DALE MAHLUM, SD 35 Missoula, presented SB 232. He said the bill addressed a need that was happening in the Missoula area. His constituents needed help in resolving the tax increases that have been between 13 and 17 percent within one year. When this steep increase is received as a surprise in the mail, people will have to sell their homes because of too high of taxes and then who will buy them. People are already on a tight budget. A projection of coming years show increases in the percentages. The Assessor's Office in Missoula said the Legislature was responsible for this problem with the passage of Senate Bill 184 last Session and it will continue to rise. This is unfair to the citizens and should be solved for all Montanans. The Legislature should not want to tax people out of their homes. **SENATOR MAHLUM** referred to the growth factor on line 21 that would take the previous years cost of living divided by two and average it out, which would be the maximum. He noted that the Department of Revenue needed to amend the bill. {Tape : 1; Side : A; Approx. Time Counter : 0 - 10.7}

Proponents Testimony :

Linda Stohl, representing Missoula County, supported the bill. She said it was a fair way to deal with property tax increase problems and gives flexibility and local control to county governments.

Mary Wittinghill, representing Montana Taxpayers Association, spoke in favor of the bill. She pointed out the concern regarding SB 184 mill levies currently in place in Montana. They have seen increases in mill levies statewide. There has not been enough time to analyze the portion that is known as the "float" verses voter approved mill levy increases. The provisions currently in place in statute are encouraging local governments to float their mills to the maximum year after year. Language needs to be added that would allow local government the authority to carry forward mill levy spending limitations or maximums into the future and not to have to levy up to that maximum every year. A second concern they have with the current system is the definition of newly taxable property and a need to clarify that in statute. {Tape : 1; Side : A; Approx. Time Counter : 10.7 - 13.5}

Gordon Morris, representing the Montana Association of Counties, supported the concept of SB 232. He pointed out another bill, HB 124. He said section 119 was identical except with the carry forward factor. The current system is a disincentive for local governments to reduce taxes and a carry forward mechanism like that in HB 124 allows them to lower taxes in any given year and then go back to the higher rate in a subsequent year without penalty. He noted the need to look at Section 15-10-420 in Section 119 in that bill and look at this bill. There is a need to clarify exactly what new property constitutes. **{Tape : 1; Side : A; Approx. Time Counter : 13.5 - 14.9}**

Eric Burke, MEA-MFT, spoke in support of the legislation. The school districts in the state have had a disincentive to reduce taxes. This bill will help provide an inflationary factor so that the districts won't have that disincentive any more and they will be able to gradually augment their funds over time. This in addition to another bill SB 117, would address this problem that was caused by Senate Bill 184. **{Tape : 1; Side : A; Approx. Time Counter : 14.9 - 16.4}**

Opponents: None

Questions from Committee Members and Responses:

SENATOR COLE asked for clarification regarding SB 184 allowing counties to float and have more regulation at the county level. **Mr. Burke** described the impact of SB 184 on specific funds in the education area. The transportation fund in the district, mandated by SB 184, goes back to last year's level. Some districts actually reduced their tax level because their cost of transportation might have went down. He asked what happened when they were frozen at that level, under SB 184. The next year when their costs went up they were limited at that past level. He pointed out they were not advocating that their tax should always increase as much as the district wants, but mainly to meet costs. Senate Bill 184 limited the ability to get back to meet the actual costs, which put more pressure on their general fund budgets. **{Tape : 1; Side : A; Approx. Time Counter : 16.4 - 18.6}**

SEN. COLE asked if this problem brought on by SB 184 was statewide. **Mr. Morris** replied that SB 184 allowed counties to calculate their mill levy entitlement, the tax liability, in such a way that they would get back to the dollar level they were at in the previous year. That meant they would have to tax back for an increment that was not there relative to the reimbursements that were provided for in SB 184, in that case some taxpayers did get increases. This bill won't change that, so you would still

be able to "float" the mill if the reimbursement dollars actually decrease. That is a different issue that is not addressed in this bill. **{Tape : 1; Side : A; Approx. Time Counter : 18.6 - 20.2}**

SEN. COLE asked if this was statewide. **Mr. Morris** replied that it was a problem statewide. The tax changes that came last Session impacted all counties in Montana in various ways, some more severely than others based upon the extent of the property they had in their jurisdiction. **{Tape : 1; Side : A; Approx. Time Counter : 20.2 - 20.8}**

SEN. GLASSER asked if this bill allowed the revenue to grow by the CPI if the taxing authority wished to do that. **Mr. Morris** replied that this only provided a growth mechanism.

SEN. ELLIS asked **SEN. MAHLUM** about the problem of tax growth in the Missoula area. He asked if most of the tax growth was due to inflationary values. He pointed out that SB 195 had limited growth and valuations to 2%. That was adjudicated as unconstitutional and then SB 184 came on the scene which fazed in those valuations over six years. He asked if this was the problem or were the local governments spending one quarter more. **SEN. MAHLUM** replied that the bill was designed to cap the tax so it can't go up more. **{Tape : 1; Side : A; Approx. Time Counter : 24.4 - 26.3}**

SEN. ELLIS asked **Mr. Morris** if this bill affected only government spending and didn't have anything to do with an individual taxpayer payments. **Mr. Morris** replied that was correct. It is a means whereby governments could determine their maximum taxpayer liability. **SENATOR ELLIS** asked if this bill addressed the problem brought by **SENATOR MAHLUM**. **Mr. Morris** said no. **{Tape : 1; Side : A; Approx. Time Counter : 28 - 28.9}**

SEN. ELLIS asked **Mary Whittinghill** about definitions. **Ms. Whittinghill** replied that they had a few amendments but did support the concept. She said the growth definition needed to be worked on. The way it is currently written, growth is added on top of the "newly taxable". The growth should be either an average of the Consumer Price Index or the newly taxable, whichever is greater. **{Tape : 1; Side : B; Approx. Time Counter : 0 - 0.5; Comments : Some of her comments were at the end of Side A.}**

SENATOR STONINGTON asked **Mr. Morris** to clarify his comments. **Mr. Morris** described the disincentive that was in current law. If taxes are reduced under the current law, there is a penalty for

local governments for being fiscally responsible because you cannot return to that level in a subsequent year. **{Tape : 1; Side : B; Approx. Time Counter : 0.5 - 4.8}**

SENATOR GLASSER asked **Terry Johnson** to comment about the inflation factor of 2%. The bill says the urban CPI, which is in the neighborhood of 3.3% the first year and 2.5% the second year. He asked for clarification. **Mr. Johnson**, from the Legislative Fiscal Division, said the Consumer Price Index was correct as far as underlying revenue estimates for inflation, which was 3.3% for this current year and 2.5% for the subsequent two years. Overall inflation in the past has been hovering at the 2% range. This gives you an idea of trends in inflation. **SENATOR GLASSER** said that in a two year rolling average it may be 1, 2 or 4%, depending on the economy for the previous two years. **Mr. Johnson** said that was correct. If you go back and take a look at a historical basis, in terms of what inflation has done over the years, especially in the mid 1980's there was higher rates then. The last ten years average has been around 2-2.5% range. **{Tape : 1; Side : B; Approx. Time Counter : 4.8 - 7.9}**

Closing by Sponsor:

SENATOR MAHLUM closed. He asked for assistance to create a fair system for all the people of Montana. He noted that where he lives if the taxes go up one or two percent it is no big deal at all. However, where he lives in the country with his neighbors, they are really scared about what will happen to them in future years. **{Tape : 1; Side : B; Approx. Time Counter : 7.9 - 9.7}**

CHAIRMAN DEPRATU said the bill appeared to need extra work. He appointed a subcommittee to study the bill and make recommendations. He appointed **SENATOR ELLIS** as Chair, **SENATOR COLE** and **SENATOR HARRINGTON** as members.

CHAIRMAN DEPRATU turned the Chair over to **VICE CHAIRMAN ELLIS** so he could present the next bill. **{Tape : 1; Side : B; Approx. Time Counter : 9.7 - 10.5}**

HEARING ON SENATE BILL 192

Sponsor: SENATOR BOB DEPRATU, SD 40 WHITEFISH

Proponents: Dave Woodgerd, Department of Revenue

Opponents: None

SENATOR BOB DEPRATU presented SB 192. He said the bill is a technical correction resulting from the referendum on the repealing of the inheritance tax. Corrections were needed regarding who would have an interest in deciding who would handle probate. He asked **Mr. Woodgerd** to explain the amendment that was needed to broaden the definition. *{Tape : 1; Side : B; Approx. Time Counter : 11.7 - 13.2}*

Proponents' Testimony:

Dave Woodgerd, Chief Legal Counsel for Department of Revenue, said this was a cleanup bill. He supported the bill because it took care of the issue after the repeal of the inheritance tax as a result of the referendum. The issue is how you file a document to pass property on when there is a joint tenancy involved and you don't have to probate the estate. This could be husband and wife or pertain to some other people who own property in joint tenancy. There is no need to probate the estate and yet they need to pass the property. There needs to be a procedure to do that. In current law, there is a document filed that is called INH3 that is filed with the Clerk and Recorder. That document essentially passes that property on. One of the things the document says is that there are no inheritance taxes due. Now as a result of the fact that inheritance taxes have been repealed, the language needs to be changed in the statute to make it clear how that is done. *{Tape : 1; Side : B; Approx. Time Counter : 13.2 - 16.6}*

Opponents' Testimony: None

Questions from Committee Members and Responses:

SENATOR STONINGTON asked if someone had a large enough estate to be paying federal estate taxes how would this bill effect that estate. **Mr. Woodgerd** said these were separate issues. Prior law required a statement from one of the surviving spouses that said both the inheritance tax and the estate tax had been paid. The inheritance tax is no longer in place but the estate tax is. The concern is whether or not something needed to be filed that says the estate taxes had been paid. He pointed out there were enough safeguards in the federal system to make sure the estate taxes were paid. *{Tape : 1; Side : B; Approx. Time Counter : 16.6 - 19.1}*

SENATOR ELLINGSON asked what the current law allowed and what the proposed bill with the amendments would also allow. He asked if current law said that the surviving joint tenant did not have any obligation to do anything other than an acknowledgment that the joint tenant has died. **Mr. Woodgerd** said that was correct.

SENATOR ELLINGSON asked for further clarification. **Mr. Woodgerd** replied that in current law, the only one that can file the document saying the person has died is a surviving joint tenant which is the spouse or a lineal descendant, a child. **SENATOR ELLINGSON** pointed out you could have joint tenancy with someone who was not your spouse. The way the current law reads is the surviving joint tenant has a right to file this acknowledgment. A surviving joint tenant isn't just a lineal descendant or a surviving spouse. **Mr. Woodgerd** replied that this was a confusing area and there were about three statutes that related to the topic. He understood that current law, if you were any kind of a joint tenant - the broad category, then in order to file something to say what happens to the property - you have to file a document saying that the person died and a description of the property and also say that inheritance and estate taxes have been paid. There is an exception to that, which is when the surviving joint tenant, which is the spouse or a lineal descendant, all they have to do is file an acknowledgment that gives a description of the property. This bill, in current form, puts that into place. The department is suggesting, in light of the appeal of the inheritance tax, there is really no need for this broader category to file anything that says an inheritance or estate taxes have been paid. It simplifies the law and says that anybody who is a joint tenant can file this acknowledgment.
{Tape : 1; Side : B; Approx. Time Counter : 19.1 - 23}

Closing by Sponsor:

SENATOR DEPRATU closed.

EXECUTIVE ACTION ON SENATE BILL 162

SENATOR COLE Moved SB 162. He Moved the amendment.

EXHIBIT(tas12a03) The question was called on the amendment. The motion PASSED unanimously.

SENATOR ELLINGSON MOVED THE BILL AS AMENDED.

SENATOR STONINGTON discussed the workload issue. She suggested a review of dedicated revenue for local government funding be tried if the concept was liked. She worried about the new set of obligations put on the Interim Committee without extra funding.

CHAIRMAN DEPRATU said that was a valid concern but they could try it for a couple of years to see how it worked. *{Tape : 1; Side : B; Approx. Time Counter : 23 - 30}*

SENATOR COLE agreed there was a need for adequate resources but it was important to look at these dedicated revenues. *{Tape : 2; Side : A; Approx. Time Counter : 0.3 - 3.1}*

SENATOR GLASSER commented that local governments still did not have dedicated sources of revenue. *{Tape : 2; Side : A; Approx. Time Counter : 3.1 - 5.8}*

SENATOR STONINGTON suggested another committee besides the Finance Committee be assigned this issue. **CHAIRMAN DEPRATU** asked **Terry Johnson** from the fiscal division to clarify. **Mr. Johnson** pointed out the reason Senator Grosfield wanted to assign this to the Finance Committee was because they currently undertake, during the Interim, the study of all state earmarked revenues. There is a mechanism in place where the Finance Committee assigns a staff person to go through that review process every biennium. There has traditionally been a small subcommittee of the Finance Committee that actually deals with that. *{Tape : 2; Side : A; Approx. Time Counter : 5.8 - 7}*

SENATOR GLASSER said this bill dealt as much with dedicated revenue in the form of property tax, local options tax, etc. as it does dedicated state fund revenues. It is not just general fund revenues. **SENATOR STONINGTON** asked if this bill would encompass the lottery money and bed tax money. How about bond issues? She asked about the scope of the bill. **Mr. Johnson** replied that this was a good question because it was unclear in the bill exactly what revenues were specified. The existing committee in place through the Finance Committee actually goes through this review process for all of those earmarked revenues. The beer tax, wine tax, liquor taxes, for example, go to local entities. These have been reviewed. He noted that this type of review is taking place now. If this means review will be for specific local government revenues that don't even come to the state, then a workload issue is a very valid point. *{Tape : 2; Side : A; Approx. Time Counter : 7 - 9.8}*

SENATOR GLASSER pointed out one problem with the Legislative process regarding Interim study committees, such as the Legislative Finance Committee, is that it consisted mostly of senior members. There are no younger people to carry on the information. The Committee on Committees tend to put on "old hands" on the Finance Committee. There will be no one with the memory of what was studied, except for staff. *{Tape : 2; Side : A; Approx. Time Counter : 9.8 - 11.3}*

SENATOR STONINGTON asked if this bill should be held up for amendments. **CHAIRMAN DEPRATU** said he had no objection to getting

more information. **SENATOR ELLIS** noted that this bill should be amended to identify specific funds so the bill is more definitive. The Chairman asked **Mr. Johnson, Mr. Heiman** and the sponsor, **SENATOR ELLIS**, to look into amendments and hold the bill for further clarification.

EXECUTIVE ACTION ON SENATE BILL 44

SENATOR BOLLINGER MOVED DO PASS on SB 44. The question was called. **The motion PASSED UNANIMOUSLY.** {Tape : 2; Side : A; Approx. Time Counter : 11.3 - 13.2}

EXECUTIVE ACTION ON SENATE BILL 46

SENATOR ELLIS MOVED the bill. SENATOR ELLIS MOVED the amendment. **SENATOR COLE** noted the concerns raised by private collectors. **SENATOR HARRINGTON** said that **Mr. Rudio** had expressed concerns over this issue during the hearing, such as the invalid addresses. **CHAIRMAN DEPRATU** pointed out that **Lee Heiman** had been asked to research the codes. **Mr. Heiman** replied that he had looked through the code at how the warrants for execution worked, such as the type of return, length of time the warrant is outstanding and as a general rule a warrant for execution includes garnishments. **EXHIBIT(tas12a01)** He explained a warrant for execution is against a particular person, a garnishment is against someone who is holding property for that person, generally a paycheck. A warrant for execution lasts sixty days and then it expires. The amendments on the bill talk about a levy on earning continues for 180 days or until the judgement is satisfied. The warrant will last sixty days in the private sector today. The amendment will extend that to 180 days. He pointed out that it was not known if multiple people would garnish against one persons paycheck, but if there was a sixty day, and a sixty day, people would tend to rotate on the garnishment. There is a federal law, which is mirrored by state law, that legislates how much of a persons paycheck you can take. If you have two or more people going against it, the first person there gets about 25-30%. After sixty days, theirs expires and the next persons come in.

CHAIRMAN DEPRATU pointed out the issue was whether the government agency would have an advantage because of the 180 days over a private collection agency in gaining access to a persons funds. {Tape : 2; Side : A; Approx. Time Counter : 13.2 - 23.6}

Lee Heiman said there was a problem of priorities, for example federal tax law comes in first. There is also bankruptcy law, wage laws where wages tend to have priority before someone else, construction liens and a whole series of issues - so it is not a level playing field.

SENATOR ELLIS called for the Question on the amendment. **The motion PASSED UNANIMOUSLY. SENATOR ELLIS moved to TABLE. The motion PASSED UNANIMOUSLY.**

EXECUTIVE ACTION ON SENATE BILL 47

SENATOR COLE MOVED THE BILL. SENATOR ELLIS MOVED THE BILL AS AMENDED. The question was called on the amendment. **The motion PASSED UNANIMOUSLY. SENATOR GLASSER** noted the bill was not popular. **SENATOR GLASSER made a SUBSTITUTE MOTION TO TABLE** the bill. **THE MOTION PASSED UNANIMOUSLY. {Tape : 2; Side : A; Approx. Time Counter : 23.6 - 27.6}**

Kurt Alme, Director of the Department of Revenue, distributed information regarding SB 47 that **SENATOR ELLINGSON** had requested. This related to individual agencies and their policy in dealing with contested debts. **EXHIBIT(tas12a02)**

ADJOURNMENT

Adjournment: 9:29 A.M.

SEN. BOB DEPRATU, Chairman

DEB THOMPSON, Secretary

BD/DT

EXHIBIT (tas12aad)